

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE:	)	CHAPTER 7
	)	
BRIAN LEE BOLINGER AND	)	CASE NO. 06-60118
LORI ANN BOLINGER,	)	
	)	JUDGE RUSS KENDIG
	)	
Debtors.	)	<b>MEMORANDUM OF DECISION</b>
	)	<b>(WRITTEN OPINION)</b>
	)	

This matter is before the court on Debtors' Application for Waiver of the Chapter 7 Filing Fee (hereafter "application") filed on February 9, 2006. On July 18, 2006, the court entered an order requesting Debtors file additional documentation to allow the court to fully assess their current financial condition. Debtors complied with the order and submitted the requested documents on July 28, 2006.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." By the terms of the statute, a court's ability to waive the fee is permissive, not mandatory ("may waive"), and waiver must be premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtors' income is 150 percent of the poverty level. According to the Department of Health and Human Services 2006 Poverty Level Guidelines, available at <http://aspe.hhs.gov/poverty/06fedreg.htm>, the poverty income for a family of seven is \$30,200.00. At 150 percent of poverty, the poverty income is \$45,300.00 annually or \$3,775.00 per month.

Form B22A (the "means test") indicates Debtors' Annualized Current Monthly Income is \$20,808.00 which is based on a monthly gross income of \$1,734.00. The court finds that, based on the most recent pay stubs submitted by Debtors, their current average gross monthly income is \$1,761.00 and well within line of the figures submitted by Debtors on the means test and Schedule I.

The average gross pay of Debtor's last three pays is \$812.95. If multiplied by twenty-six pays, Debtors look to be on track to earn approximately \$21,136 in 2006. Debtors 2005 tax return indicates an adjusted gross income of \$19,265.00 for 2005.

Although Debtors received \$4,735.00 as a federal tax refund, they are still not close to earning income which places them at poverty, let alone 150% above poverty. Debtors have met the first prong of the test.

Upon review of Debtors' budget, the court concludes that Debtors are not able to pay the filing fee in installments. Debtors budget is meager for a family of seven. Debtors monthly budget allows only \$30.00 for clothing and \$10.00 for medical. The monthly expenses do not include any amounts for vehicle maintenance or repair or recreation of any type. Each of the expenses itemized by Debtors is below the Internal Revenue Service guidelines. Therefore, Debtors have demonstrated their inability to pay the filing fee in installments.

Having found that Debtors earn less than 150% of poverty and do not have the ability to pay the filing fee in installments, the court hereby **GRANTS** Debtors' application to waive the filing fee.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig **AUG 04 2006**  
RUSS KENDIG  
U.S. BANKRUPTCY JUDGE

**Service List:**

Brian Lee Bolinger  
Lori Ann Bolinger  
111 W. Blanche St.  
Mansfield, OH 44903

Josiah L. Mason  
153 W. Main St.  
P.O. Box 345  
Ashland, OH 44805-2219